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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,860	07/24/2003	Jurgen Eich	03191/000M965-US0	6133
7278	7590	02/24/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			BEHNCKE, CHRISTINE M	
			ART UNIT	PAPER NUMBER

3661

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,860

Applicant(s)

EICH ET AL.

Examiner

Christine M. Behncke

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-26 and 28-42 is/are allowed.
- 6) ☒ Claim(s) 2-8, 10 and 27 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the Amendment filed 2 December 2004, in which claims 2-42 were presented for examination.

Drawings

2. The drawings are objected to because Figure 2 is incomplete and needs to be corrected for clarity. Specifically: step 3 the yes/no test, it is unclear from the illustration future steps when the test results in a NO, and the process after step 10, that points to an incomplete step: termination, return to beginning, or Figure 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2-8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Salecker et al. US Patent Application Publication 2002/0134637.

5. **(Claim 10)** Salecker et al. discloses a method of controlling an automated clutch of a vehicle, comprising the step of adapting a characteristic curve of the clutch through an electronic clutch management system ([0360] and [0423]), wherein the adaptation is performed under at least one suitable set of operating conditions ([0414] and [0420]), said suitable set of operating conditions being represented by at least one suitable operating point ([0423]), wherein the adaptation of the characteristic curve is based on at least one input variable ([0420] and [0423]); and the at least one input variable comprises at least one of an engine rpm-rate ([0420] and [0421]), an effective engine torque, and a clutch actuator position.

6. (Claim 2) Salecker et al. further discloses wherein the at least one suitable operating point is arbitrarily selected ([0360] and [0423]).
7. (Claim 3) Salecker et al. further discloses wherein the adaptation is performed every time the vehicle is started up from a standstill ([0420]).
8. (Claim 4) Salecker et al. further discloses wherein the adaptation is performed with every gear shift ([0420]-[0425]).
9. (Claim 5) Salecker et al. further discloses wherein the adaptation is performed on at least one model parameter in a model parameter set ([0256] and [0420]-[0425]).
10. (Claim 6) Salecker et al. further discloses wherein the at least one model parameter comprises a point of incipient frictional engagement of the automated clutch ([0015]-[0027]).
11. (Claim 7) Salecker et al. further discloses wherein the at least one model parameter comprises a friction coefficient of the automated clutch ([0256] and [0420]-[0425]).
12. (Claim 8) Salecker et al. further discloses wherein the at least one model parameter further comprises a curve shape of a characteristic curve of the automated clutch ([0420]-[0425]).
13. (Claim 27) Salecker et al. further discloses wherein the adaptation of the characteristic curve comprises: during a slip phase of the clutch, computing a clutch torque based on an engine torque and on a rotary acceleration of the engine, and comparing the computed clutch torque to a stored characteristic curve ([0420]-[0425]).

Allowable Subject Matter

14. **Claim 11** is objected to as being dependent upon a rejected base claim and are at present considered to overcome the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims **12-26** and **28-42** are at present considered allowable.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine M. Behncke whose telephone number is (703) 305-0589. The examiner can normally be reached on Monday - Friday 8:30 AM - 5:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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